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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/341,368	10/05/1999	WILFRIED JAEHNER	67190/965158	5042

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EXAMINER

LEJA, RONALD W

ART UNIT PAPER NUMBER

2836

DATE MAILED: 01/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/341,368

Applicant(s)

JAEHNER ET AL.

Examiner

Ronald W Leja

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 07 August 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 5 and 7.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Attached Page 2-4

Ronald W Leja
Ronald W Leja
Primary Examiner
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Applicants' Response of 12/5/03 is confusing in that it references itself as an "Amendment After Final". However, there does not appear to be any amendment to the Specification and the Examiner cannot distinguish the allegedly amended Claims 5 and 7 from those corresponding claims found in the amendment of 11/26/02. Have Claims 5 and 7 been amended since the amendment of 11/26/02? As the claims stand, the Final Rejection of 2/7/03 has been maintained.

Applicants' arguments are not convincing. Applicants' argue that the Dick (3,671,814) Reference does not disclose nor suggest that coil control occurs when "a flux threshold value" is attained, but rather coil current is controlled with respect to the varying resistance of a field resistor (8). It is the Examiner's position that the Reference is replete with reference to coil current control being dependent upon a sensed "flux threshold value" as required by the instant claim language. For example, in the Abstract, "an on-off control system for the excitation current is provided which operates as a function of the magnetic field intensity ... for measuring the magnetic flux density and for a comparison with a desired value." Applicants' arguments are drawn to the embodiment using the field resistor (8) and no arguments are presented to the embodiment using Hall sensor (8'), the embodiment to which the Examiner pointed to specific text in the Reference in the Final Rejection. In spite-of-the-fact, as found within col. 2 of the Reference, the resistor is responsive to the magnetic field strength with the voltage drop across the resistor (8) being a direct measure of the attracting force. A measuring point (148) from resistor (8) is

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compared to a user selectable (for Claim 7) threshold potential (165). Coil current is controlled dependent upon whether (148) is above or below the threshold set at (165). With respect to the embodiment utilizing the Hall sensor (8'), Fig. 3, the output voltage from the sensor is proportional to a actual sensed flux value for the actual values of the drive-specific switching parameters and it is compared to a predetermined threshold value representing a desired flux threshold value. See Col. 4, lines 14-64. Further attention is directed to Col. 5, line 73 through Col. 6, line 3. Thus, it is clear that Dick discloses coil control after detection of a flux threshold value. As far as the arguments drawn to the application of Moran et al. (5,784,244), the Reference was utilized for the teaching of solenoid systems for switchgears. As far as the motivation offered by the Examiner for the obvious combination of the two references, as found on Page 3 of the Final Office Action of 2/7/03, the motivation was found within the disclosure of Dick. Moran et al. clearly established that it was known in the Prior Art to utilize solenoid systems with switchgears. Dick offered the motivation relied upon by the Examiner for applying the disclosure to solenoid systems needing coil current control. See Col. 1, lines 27-59. Thus, it was not a condition wherein the Examiner was merely rendering an opinion for motivation. Applicants' further argue that

"the Dick Reference, particularly in line 26 of column 3, states that an oscillating movement is to be generated. For that reason, Applicants respectfully submit that a person of ordinary skill in the art, even assuming *arguendo* that he or she takes it into consideration

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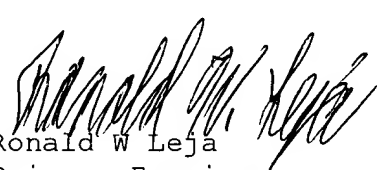
at all, does not receive any teaching or suggestion for creating a control device of a switch gear as claimed."

It is not understood how this is relevant, since the claim language merely recites "A solenoid system for switchgear, comprising: ... a control device of a switchgear drive ...". There is no apparent claim language, which distinguishes the switchgear and the switchgear drive from any disclosure or teaching found with the references, Dick and Moran et al.. Any disclosed control oscillation is not prohibited by the instant claim language.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald W Leja whose telephone number is (703) 308-2008. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on (703) 308-3119. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.


Ronald W Leja
Primary Examiner
Art Unit 2836

rwl
January 3, 2004

